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■ SPOOKS' LIB

# Taking C.I.A. Critics to Court

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**S**tung by critical portrayals of the Central Intelligence Agency in books and in the press, a group of retired agents has resolved to fight back in the courts. Last year, members of the Association of Former Intelligence Officers received a fund-raising appeal from one of the organization's directors, David Atlee Phillips. The letter asked the members, estimated to number about 2,500, to contribute to Challenge, a legal-action fund that sponsors lawsuits against the authors of books and articles alleging misdeeds by intelligence operatives.

Phillips, a former superspy, rose through the ranks to become the chief of the agency's Western Hemisphere Division before retiring in 1975. He recently filed a \$90 million libel and slander suit against Donald Freed, author of *Death in Washington*, and several researchers who worked on the book, which accuses the C.I.A. and Phillips of complicity in the 1976 assassination of Orlando Letelier in Washington, D.C. Letelier, a minister in former Chilean President Salvador Allende's government and an opponent of Augusto Pinochet, was killed in the explosion of a bomb attached to his car. Ronni Moffitt, a passenger in the car, also died in the blast.

Phillips has also filed a \$70 million action for libel and invasion of privacy against Gaeton Fonzi and *The Washingtonian* for an article by Fonzi discussing possible links between Phillips and the assassination of John F. Kennedy as well as C.I.A. plots on Fidel Castro's life.

In his fund-raising letter, Phillips said that both non-fiction and fiction would be fair game for Challenge:

Ex-intelligence officers have been battered around in recent years, and we've taken the beating. . . . I believe a test case should be mounted against writers who defame ex-intelligence officers, dead and alive, by using their names in egregious novels.

Phillips had a particular novel in mind—*Spymaster*, also by Freed, a tale about a lusty operative who becomes Director of Central Intelligence in which real and fictional characters are intermingled.

The efforts to unite former agents behind lawsuits against the C.I.A.'s critics recall the recent wave of "blue lib" suits filed by police officers against civilians who have lodged complaints against the officers [see Pell, "Libel as a Political Weapon," *The Nation*, June 6]. Certainly, the tone taken by Phillips resembles the line taken by the police: We are just ordinary citizens defending our rights. Yet both groups have extraordinary powers, including, under certain circumstances, the right to kill, so their

"ordinary citizen" (

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In addition to its moves to limit the Freedom of Information Act, the Reagan Administration has demonstrated its intention to increase the freedom of the intelligence agencies and curtail the freedom of their critics. By upholding the State Department's authority to deprive former agent Philip Agee of his passport, the Supreme Court dealt another blow to the C.I.A.'s critics [see Stephen Gillers, "Reasoning Not the Need," *The Nation*, July 25-August 1]. In short, the time seems ripe for a return to the bad old days when "national security" justified covering up murder, torture and covert actions against foreign governments.

But there is a positive aspect to the libel suits filed by Phillips: they provide a golden opportunity for a thorough probe of all facets of his twenty-five-year C.I.A. career, which included service in eight countries. He will have to answer detailed pretrial interrogatories prepared by Freed and his lawyers, Melvin Wulf and former U.S. Attorney General Ramsey Clark. In order to establish the truth of Freed's charges, the defense counsels will seek to establish what role, if any, Phillips played in organizing the coup that overthrew the Allende government, in recruiting anti-Castro Cuban exiles for dirty tricks and in planning clandestine operations throughout the Western Hemisphere.

Should Phillips refuse to answer because of the oath not to discuss C.I.A. operations that all its employees must take, he will be unable to proceed with his suit. Should he respond to the interrogatories, his answers will provide students of intelligence operations with a mother lode of information. Conspiracy buffs like Freed will have their suspicions confirmed or denied by a source with firsthand knowledge of C.I.A. operations in Cuba, Chile, Guatemala and many other places at home and abroad.

The tactics employed by the former superspy and his attorney, James Bierbower, are worthy of note. They did not name the publisher of *Death in Washington* as a defendant, as is customary in libel actions. Clark speculates that by using the precedent established by the Supreme Court in the case of former C.I.A. agent Frank Snapp—that the earnings of an author who violates his secrecy oath may be impounded—Phillips hopes to make writers and researchers bear the entire burden of defending themselves and to deprive them of any help from their publishers.

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